

§ 159.5 Cigars, cigarettes, and cigarette papers and tubes.

The internal revenue taxes imposed on cigars, cigarettes, and cigarette papers and tubes under section 5701 or 7652, Internal Revenue Code of 1954 (26 U.S.C. 5701 or 7652), are determined in accordance with section 5703 of that Code (26 U.S.C. 5703) at the time of removal; that is, on the quantity removed from Customs custody under the entry or withdrawal for consumption. The Customs duties, unlike those on alcoholic beverages, do not necessarily apply only to such quantities.

(Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

§ 159.6 Difference between liquidated duties and estimated duties.

(a) *Difference under \$20 in original liquidation.* When there is a net difference of less than \$20 between the total amount of duties, fees, and taxes assessed in the liquidation of any entry (other than an informal, mail, or baggage entry) and the total amount of estimated duties, fees, and taxes deposited, including any supplemental deposit, the difference shall be disregarded and the entry endorsed "as entered." In the case of an informal, mail, or baggage entry, the amount of duties, fees, and taxes computed by a Customs officer when the entry is prepared by, or filed with, him shall be considered the liquidated assessment.

(b) *Difference under \$20 in reliquidation.* When there is a net difference of less than \$20 between the total amount of duties, fees, and taxes found due in the reliquidation of any entry and the total amount of duties, fees, and taxes assessed in the prior liquidation of the entry, the difference shall be disregarded except in the following cases:

(1) *Reliquidation at importer's request.* When reliquidation of any entry is made at the importer's request, such as reliquidation following the allowance of a protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), or a request for correction under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)), any refund determined to be due shall be refunded even if less than \$20.

(2) *Court decision.* Any refund or increase determined to be due as the re-

sult of the reliquidation of an entry in accordance with a court decision and judgment order shall be refunded or collected as the case may be.

(c) *Difference of \$20 or more collected or refunded.* If there is a difference of \$20 or more between the duties, fees, and taxes assessed in the liquidation of an entry and the total estimated duties, fees, and taxes deposited, or between the total duties, fees, and taxes assessed in the reliquidation of an entry and those assessed in the prior liquidation, the entry shall be endorsed to show the difference and bills or refund checks shall be issued.

(d) *Customs duties and fees and internal revenue taxes netted for \$20 limit.* The assessments of Customs duties and fees and internal revenue taxes shall be separately stated on the entry at the time of liquidation, but the amounts of any differences shall be netted when applying the \$20 minimum for issuance of a bill or refund check.

(Sec. 7, 52 Stat. 1081, as amended, sec. 505, 46 Stat. 732, as amended; 19 U.S.C. 1321, 1505)

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 78-394, 43 FR 49791, Oct. 25, 1978; T.D. 94-51, 59 FR 30296, June 13, 1994]

§ 159.7 Rewarehouse entries.

The liquidation of the original warehouse entry shall be followed in determining the liability for duties on a rewarehouse entry, except in the following cases:

(a) *Merchandise excluded from liquidation of original warehouse entry.* When any of the following types of merchandise are withdrawn from warehouse for transportation to another port, they shall be excluded from the liquidation of the original warehouse entry, and the liability for duties shall be determined by a liquidation of the rewarehouse entry made at the port where the merchandise is withdrawn for consumption or for exportation:

(1) Alcoholic beverages provided for in headings 2203 through 2208, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), and subject to internal revenue taxes;

(2) Cigars, cigarettes, and cigarette papers and tubes subject to internal revenue taxes;

(3) Tariff-rate quota merchandise; and

(4) Wool or hair subject to duty at a rate per clean kilogram under Chapter 51, HTSUS.

(b) *Reliquidation required by change in rate.* When a rate of Customs duty or tax is changed by an act of Congress or a proclamation of the President, any necessary reliquidation of Customs duty or tax on merchandise covered by a rewarehouse entry which may be required by reason of the change in rate shall be made at the port where the merchandise is held in Customs custody on the effective date of the change.

(c) *Shortage, irregular delivery, non-delivery, and other cases.* In cases involving shortage, irregular delivery, or nondelivery under the original warehouse withdrawal for transportation, or in other cases when the port director of the port where the merchandise is entered for rewarehouse is of the opinion that circumstances make it inadvisable to follow the liquidation of the original warehouse entry, he shall make an appropriate adjustment in the amount of duties to be assessed under the rewarehouse entry.

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 89-1, 53 FR 51270, Dec. 21, 1988; T.D. 90-78, 55 FR 40168, Oct. 2, 1990]

§ 159.8 Allowance for loss, injury, etc.

Allowance in duties for any merchandise which is lost, stolen, destroyed, injured, abandoned, or short-shipped shall be made in accordance with the provisions of part 158 of this chapter.

§ 159.9 Notice of liquidation and date of liquidation for formal entries.

(a) *Bulletin notice of liquidation.* Notice of liquidation of formal entries shall be made on a bulletin notice of liquidation, Customs Form 4333.

(b) *Posting of bulletin notice.* The bulletin notice of liquidation shall be posted for the information of importers in a conspicuous place in the customhouse at the port of entry (or Customs station, when the entries listed were filed at a Customs station outside the limits of a port of entry), or shall be lodged at some other suitable place in the customhouse in such a manner that

it can readily be located and consulted by all interested persons, who shall be directed to that place by a notice maintained in a conspicuous place in the customhouse stating where notices of liquidation of entries are to be found.

(c) *Date of liquidation—(1) Generally.* The bulletin notice of liquidation shall be dated with the date it is posted or lodged in the customhouse for the information of importers. This posting or lodging shall be deemed the legal evidence of liquidation. For electronic entry summaries, the date of liquidation will be the date of posting of the bulletin notice of liquidation. Customs will endeavor to provide the filer with electronic notification of this date as an informal, courtesy notice of liquidation.

(2) *Exception: Entries liquidated by operation of law.* (i) Entries liquidated by operation of law at the expiration of the time limitations prescribed in section 504, Tariff Act of 1930, as amended (19 U.S.C. 1504), and set out in §§ 159.11 and 159.12, shall be deemed liquidated as of the date of expiration of the appropriate statutory period.

(ii) The bulletin notice of liquidation shall be posted or lodged in the customhouse within a reasonable period after each liquidation by operation of law and shall be dated as of the date of expiration of the statutory period.

(iii) A protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and part 174 of this chapter shall be filed within 90 days from the date the bulletin notice of liquidation of an entry by operation of law is posted or lodged in the customhouse.

(d) *Courtesy notice of liquidation.* Customs will endeavor to provide importers or their agents with Customs Form 4333-A, "Courtesy Notice," for all entries scheduled to be liquidated or deemed liquidated by operation of law. This notice shall serve as an informal, courtesy notice and not as a direct, formal and decisive notice of liquidation.

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 79-221, 44 FR 46829, Aug. 9, 1979; T.D. 90-1, 54 FR 52933, Dec. 26, 1989; T.D. 90-92, 55 FR 49888, Dec. 3, 1990]